

1 Andrew O. Smith, Esq., SBN 217538
2 Flora Ruoyu Li, Esq., SBN 337817
3 **PETTIT KOHN INGRASSIA LUTZ & DOLIN PC**
4 5901 West Century Boulevard, Suite 1100
5 Los Angeles, California 90045
6 Tel: (310) 649-5772
7 Fax: (310) 649-5777
8 Email: aosmith@pettitkohn.com
9 fli@pettitkohn.com

10 Attorneys for Defendant
11 **WALMART INC.**

12
13 **UNITED STATES DISTRICT COURT**
14
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 CHARLENE BAKER,

17 Plaintiff,

18 vs.

19 WALMART SUPERCENTER, a
20 business entity form unknown;
21 WALMART INC.; and DOES 1-100,
22 inclusive,

23 Defendants.

Case No. 2:22-cv-04259

**NOTICE OF REMOVAL OF
ACTION PURSUANT TO 28 U.S.C.
SECTIONS 1332 AND 1441(a) and
(b)**

Courtroom:

District Judge:

Magistrate Judge:

Complaint Filed: November 22, 2021

Trial Date: Not set

17 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

18 PLEASE TAKE NOTICE that Defendant WALMART INC. (“Walmart”), by
19 and through its counsel, hereby removes the above-entitled action filed by Plaintiff
20 CHARLENE BAKER (“Plaintiff”) in the Superior Court of the State of California,
21 County of Los Angeles, Case No. 21AVCV00956 to the United States District
22 Court, Central District of California pursuant to 28 U.S.C. §1441, and respectfully
23 alleges as follows:

24 1. On November 22, 2021, an action was commenced in the Superior
25 Court of the State of California, County of Los Angeles, entitled *Charlene Baker v.*
26 *Walmart Supercenter, et al.*, Case Number 21AVCV00956 (“the State Action”). A
27 copy of the complaint filed in the State Action is attached hereto as **Exhibit “1.”**

28 ///

2. Walmart was served with a copy of the Complaint filed in the State Action and a Summons from the state court on March 16, 2022. A copy of the Summons with the Proof of Service is attached hereto as **Exhibit “2.”**

3. On April 15, 2022, Walmart timely filed its Answer to Plaintiff's Complaint, along with a Demand for Jury Trial in the State Action, attached hereto as **Exhibits “3” and “4,”** respectively.

4. Based on a review of the State Court file as of June 22, 2022, no other Defendant has been served with any Summons or Complaint in the State Action.

5. Plaintiff's Complaint purports to assert causes of action based in premises liability and negligence. Plaintiff's Complaint seeks to recover damages for lost wages, loss of earning capacity, hospital and medical expenses, past and future medical expenses, and past and future general damages.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332 (A)

6. This Court has jurisdiction over this matter under 28 U.S.C. section 1332(a)(1) because there is complete diversity as the parties are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Removal is therefore proper pursuant to 28 U.S.C. sections 1441 (a) and (b).

a. Plaintiff is a Citizen of California

7. Plaintiff is domiciled in and is presently a citizen of the State of California. On or about May 23, 2022, Plaintiff responded to Walmart's Form Interrogatories (Set One) verifying that she is domiciled in the State of California, and thus a present citizen of California. Plaintiff was born in Los Angeles, California in 1984 and has lived in Palmdale, California for the past three years. Plaintiff is employed at Liberate Yourself as an Assistant Manager in Sherman Oaks, California and has worked in California since at least 2017. Moreover, Plaintiff has attended school in California since at least 2009. Attached hereto as **Exhibit “5”** is Plaintiff's verified Responses to Walmart's Form Interrogatories (Set One) (see 4:23-6:12). Attached hereto as **Exhibit “6”** is Walmart's Requests

1 for Admission (Set One) (see 6:1-4.) Attached hereto as **Exhibit “7”** is Plaintiff’s
 2 verified response to Walmart’s Request for Admissions (Set One) (see 3:6-7.)

3 **b. Plaintiff Claims Damages in Excess of \$75,000**

4 8. Plaintiff claims in excess of \$75,000 in general damages. (See **Exhibit**
 5 **“7,”** 3:8.) Attached hereto as **Exhibit “6”** is Defendant’s Requests for Admission
 6 (Set One). As result of the incident, Plaintiff claims injury to her neck, lower back,
 7 buttocks, right ankle, toes on right foot, right leg and right knee and has accrued
 8 approximately \$25,336 in past medical specials. (See **Exhibit “5,”** 4:1-23; 5:1-2.)
 9 Plaintiff further claims future medical expenses totaling over \$75,000 including a
 10 recommendation for epidural injections. (See **Exhibit “5,”** 5:6-7.) Accordingly,
 11 the amount in controversy, exclusive of costs and interests, certainly exceeds the
 12 minimum requirement required for diversity jurisdiction under 28 U.S.C. section
 13 1332(a).

14 **c. Walmart is a Citizen of Delaware**

15 9. Walmart is a citizen of Delaware where it is incorporated, and of
 16 Arkansas, where it holds its principal place of business (in Bentonville, Arkansas).
 17 Copies of Walmart’s corporate information from the California Secretary of State
 18 Business Search and the Arkansas Secretary of Business/Commercial Services are
 19 attached hereto as **Exhibits “8” and “9,”** respectively.

20 10. Because the State Action is pending in the Superior Court of California
 21 in and for the County of Los Angeles, removal of this action to this District Court is
 22 proper under 28 U.S.C. section 1441(a).

23 11. Removal is timely under 28 U.S.C. section 1446(b) because this
 24 Notice of Removal is filed within 30 days of Walmart receiving notification from
 25 Plaintiff’s discovery responses that she was a citizen of the State of California and
 26 that the total amount in controversy exceeds the jurisdictional requirements of
 27 \$75,000, exclusive of costs and interests. It was not until Plaintiff served her
 28 discovery responses concerning the nature and extent of her injuries and confirming

1 her citizenship in the State of California, that Walmart learned this matter exceeded
2 the jurisdictional requirements for diversity jurisdiction under the Federal Rules of
3 Civil Procedure.

4 12. Written notice of the filing of this Notice of Removal will be promptly
5 served on Plaintiff. The Notice of Interested Parties, with a true and correct copy of
6 the Notice of Removal, will be filed with the Clerk of the Superior Court of the
7 State of California in and for the County of Los Angeles as soon as practicable.

8 **WHEREFORE**, Walmart requests that the above-entitled action be removed
9 from the Superior Court of the State of California, County of Los Angeles to the
10 United States District Court.

PETTIT KOHN INGRASSIA LUTZ & DOLIN PC

Dated: June 22, 2022 By /s/ Flora Ruoyu Li, Esq.
Andrew O. Smith, Esq.
Flora Ruoyu Li, Esq.
Attorneys for Defendant
WALMART INC.
aosmith@pettitkohn.com
fli@pettitkohn.com